

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BAGLY, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES, *et al.*

Defendants.

C.A. No. 20-cv-11297-PBS

REPORT ON STATUS OF PROPOSED RULEMAKING

Pursuant to this Court’s Order, ECF No. 114, Defendants submit this report on the status of the proposed rulemaking. The United States Department of Health and Human Services (“HHS”) Office for Civil Rights published a proposed rule implementing Section 1557 of the Affordable Care Act in the Federal Register on August 4, 2022. Nondiscrimination in Health Programs and Activities, 87 Fed. Reg. 47,824 (Aug. 4, 2022). HHS is moving as quickly as possible to consider the more than 85,000 comments submitted on the proposed rule and to issue a final rule that addresses those comments and the many complex issues covered by the rulemaking.

It is difficult for HHS to predict with accuracy the time period for finalizing the rule given the multiple levels of intra and inter-agency review required, as well as the potential for unforeseen circumstances to interfere with the agency’s plans. Nonetheless, on July 18, 2023, undersigned counsel represented to the Court that HHS aspires to issue a final rule not later than this winter. Moreover, undersigned counsel represented that HHS aspires to submit the rule to the Office of Information and Regulatory Affairs for final clearance before the end of this calendar year.

Dated: July 31, 2023

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Respectfully submitted,

/s/ Liam C. Holland
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